

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **January 11, 2005**

AGENDA ITEM NO.: 18

CONSENT: **X**

REGULAR:

CLOSED SESSION:

ACTION: **X**

INFORMATION:

(Confidential)

ITEM TITLE: **Amendment to the City Code to Clarify the Application of the Business License Tax on Contractors**

RECOMMENDATION:

Consider adopting an ordinance to amend Lynchburg City Code § 36-126.29(b) to change the word "value" to "cost".

SUMMARY:

Currently, Lynchburg City Code § 36-126.29(b) requires a speculative builder to obtain a business license based upon the cost of erecting the speculative buildings exclusive of the "value" of the land. The customary practice in applying this section has been to use the cost of the land because it is definitive and more readily available. The word "value" has not been defined for this section and therefore is open to interpretation as to what type of value (i.e. real estate assessed value or market value). Accordingly, it is recommended the term "value" be changed to "cost".

The City Attorney had been consulted regarding the City's authority to provide for the cost adjustment to the gross receipts of speculative builders. He has stated his belief that this authority can be reasonably implied under the state enabling legislation. This adjustment has been in place since the 1980's and it can be assumed that City Council was confident of its authority at that time. Rather than change the long-standing practice, the proposed amendment merely clarifies the process.

PRIOR ACTION(S): Review by Finance Committee and recommendation for approval, January 4, 2005

FISCAL IMPACT: NONE

CONTACT(S): Mitch Nuckles, Commissioner of the Revenue, 847-1594

ATTACHMENT(S): Ordinance amending the City Code

REVIEWED BY: lkp

ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTION 36-126.29. CONTRACTORS-DEFINITIONS, OF THE CODE OF THE CITY OF LYNCHBURG, 1981. THE AMENDED SECTION RELATING TO BUSINESS LICENSES FOR CONTRACTORS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 36-126.29 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 36-126.29. Contractors--Definitions.

(a) Contractor shall mean any person, firm or corporation who accepts or offers to accept orders or contracts for:

(1) Any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material.

(2) Any paving, curbing or other work on sidewalks, streets, alleys, or highways, or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition.

(3) Any excavations of earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way.

(4) Any sewer constructions of stone, brick, terra cotta or other material.

(5) Any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power.

(6) Engaging in the business of plumbing and steam fitting.

(b) Persons contracting for their own account for sale shall be included in the contracting category for business license tax purposes and this category shall include speculative builders. All of the cost of erecting speculative buildings, exclusive of the value acquisition cost of the land, shall be considered as a part of the orders or contracts accepted by the taxpayer in computing the taxpayer's license tax.

(c) A contractor whose principal office or branch office is outside the city and who accepts a contract or contracts to be performed in the city, when the amount of business done by any such contractor under such contract or contracts exceeds the sum of twenty-five thousand dollars (\$25,000.00) in any year, shall be treated in the same manner as a new business, and shall be required to file an estimate of the amount of gross receipts he will receive from such contract or contracts during each year in which he is doing business in the city, which estimates shall be subject to correction and adjustment at the end of each year by the commissioner of the revenue in the same manner as adjustments are made for new businesses.

(d) Every contractor who proposes to do work in the city, for which a permit must be obtained from the proper building official of the city, shall, upon making application for such permit, furnish that official and the commissioner of the revenue, a list of all of his subcontractors, and, in the event any or all of such subcontractors have not been awarded at that time, he shall furnish such list in writing to said official immediately upon the awarding of such subcontracts, and shall not allow the work of any subcontract to proceed until the subcontractor has obtained the necessary city licenses for the then current year.

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified:

Clerk of Council